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GENERAL AND COMPLETE DISARMAMENT

REVIEW OF THE IMPLEMENTATION OF THE DECLARATION ON THE STRENGTHENING OF INTERNATIONAL SECURITY

Letter dated 25 April 1997 from the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

Upon instructions from my Government, and with reference to the letter dated 18 April 1997 from the Permanent Representative of the Netherlands to the United Nations and its annex (A/52/120), I have the honour to bring the following to your attention.

The Islamic Republic of Iran rejects categorically allegations contained in the annex and the pseudo-legal proceedings to which it refers, condemning both as a most grave breach of the fundamental principles of international law, particularly the principles of sovereign equality, non-interference in the internal affairs of States and jurisdictional immunities of States. We find the wording and the context of the annexed statement of 10 April 1997 of the Presidency of the European Union concerning Iran to be baseless, presumptuous and arrogant for the following reasons:

1. The statement of the Presidency of the European Union contends that "the findings" of the Mykonos Court "established the involvement of Iranian authorities". In fact, the presiding judge of a domestic court in Berlin, explaining his decision in the trial of five individuals, went far beyond his court's jurisdiction and without producing a shred of evidence levelled unfounded and malicious allegations against the Islamic Republic of Iran. The Foreign Minister of the Islamic Republic of Iran, in his letter of 15 April 1997 to his colleagues, described the political nature of the proceedings and the accusations.

* A/52/50.

It is evident that contrary to the presumptuous contention of the Presidency of the European Union, the explanatory statement of the Mykonos judge does not even claim to be and certainly does not amount to a "finding" nor can it "establish" anything, particularly in light of the following factual and legal considerations:

1.1. Violation of the principle of jurisdictional immunity of States

The explanatory statement violates a well-established principle of international law, namely, the jurisdictional immunities of States. In accordance with this principle, domestic courts of any State are incompetent and lack any jurisdiction to hear claims against another sovereign State and its officials acting in their sovereign capacities.

The very fact that the Mykonos judge explicitly stated that the Islamic Republic of Iran was not the subject of trial indicates the court's recognition of its lack of jurisdiction and indeed rejects any contention that the court made any "findings" or "established" any fact regarding the Islamic Republic of Iran or its officials. It is regrettable that the Presidency of the European Union neglects this very obvious legal consideration.

1.2. Lack of any evidence and total reliance on biased witnesses with no credibility

The prosecution never provided any evidence to corroborate its irresponsible allegations against the Islamic Republic of Iran and its senior officials. It based its malicious accusations against Iran solely on hearsay and biased testimony of politically motivated witnesses who appeared before the court. None of these witnesses could be expected, or were in a position, to produce reliable testimony before the court.

The witnesses were exclusively assembled from a group of sworn enemies of the Iranian Government and members and supporters of terrorist and armed separatist groups, whose stated objective as well as behaviour before the court clearly illustrated that their only aim was to discredit Iran and not to help the court to ascertain the facts. The witness list even included individuals who are wanted by the Iranian judicial authorities for criminal offences such as hijacking and other terrorist activities resulting in the murder of Iranian officials as well as ordinary civilians inside the Islamic Republic of Iran. Therefore, the explanatory statement of the presiding judge, which is based solely upon the perjury of witnesses extremely hostile to Iran, who would have been automatically disqualified in any serious tribunal because of their terrorist activities and criminal pasts or at least their biased views, is an ex parte ruling and, as such, has no legal basis or value.

1.3. Rejection of the offer of cooperation by Iran

While the validity and applicability of the principle of jurisdictional immunity of States in this case is absolute and unquestionable, and the trial of foreign States before national courts is illegal and unacceptable, the Ambassador of the Islamic Republic of Iran to Germany, in a letter dated 12 April 1995 to the presiding judge, categorically rejected the accusations and stated his readiness to provide sufficient information which would prove beyond any doubt the fallacious nature of the allegations. Surprisingly, the court did not avail itself of this offer, indicating that the court never intended to test the validity of the accusations of its tainted witnesses against Iran.

1.4. Total lack of due process of law

The greatest bulk of testimony as well as the claim by the prosecution and the explanatory remarks by the presiding judge contain accusations against Iran and a number of its senior officials, who are not and could not have been subjects of the proceedings, and thus by reasons of law and circumstances could not have benefited from any defence and rebuttal of the politically motivated and baseless allegations levelled against them. In addition to violating the fundamental principle of state immunity as well as the generally accepted rules of evidence, the failure of the court to refrain from accusing others outside its jurisdiction and without recourse to universally recognized legal guarantees constitutes clear evidence of disrespect for the rule of law, the requirements of due process and fundamental principles of human rights. This, in and of itself, is sufficient proof that the court has not acted in accordance with fundamental rules of judicial proceedings and instead opted for political statements.

1.5. Improper and political language of the court

The explanatory remarks of the presiding judge resemble more a political manifesto than a legal document. The judicially improper and biased terminology utilized by the judge in his explanatory remarks leaves no doubt that he was, at the very least, completely prejudiced against the Islamic Republic of Iran. Inclusion of phrases such as "Iranian regime", and "so-called religious Government" are all indications of the preconceived position of the court towards Iran and its form of government. Furthermore, the court's reference to terrorist operations of certain separatist groups based in Iraq as "the struggle of the Kurds to attain autonomy" not only indicates its total bias, but also illustrates that it has arrogantly ventured in its proceedings into areas completely outside its competence, committing a grave breach of the principle of non-interference.

The abnormal and unjudicial behaviour of the court reaffirms that the explanatory statement has no legal value and is only a political declaration prepared to be exploited for the political objective of distorting the image of Iran. In the same context, the statement by the Presidency of the European Union constitutes an even more dangerous contempt for justice and international law, by purporting, against all legal principles and factual evidence and even

the court's own disclaimer, that there had been a legal investigation of Iranian involvement, leading to a "finding" by the court "establishing" such an involvement.

2. The statement makes self-centred statements about the so-called critical dialogue. The Islamic Republic of Iran has made its views crystal-clear on the critical dialogue. Iran welcomed dialogue with the European Union as a mechanism for serious discussion of issues, proper understanding of differences and practical steps for promoting understanding and cooperation. We engaged in the dialogue in good faith, making concrete proposals on various items of mutual interest or concern. It has become clear, however, that certain elements within the European Union have continued to obstruct a serious dialogue and attempted to use it as a vehicle for political pressure. As the spokesman of the Foreign Ministry of the Islamic Republic of Iran clarified on 11 April 1997, "as long as the European Union fails to act in good faith and avoid sensationalism and arrogance, Iran considers the dialogue as useless and futile".

3. While the statement of the Presidency makes the most unfounded accusations against the Islamic Republic of Iran and its senior officials, it calls upon the Iranian Government to "take measures against possible ... accusations against any Member State". This represents another indication of a self-centred and arrogant approach, reminiscent of their colonial past which the Islamic Republic of Iran has consistently challenged and hereby condemns.

In fact, in the course of the critical dialogue, the Islamic Republic of Iran has brought to the attention of the European Union and its member States many cases of grave violations of international law by members of the European Union, resulting in irreparable damage to Iran and its citizens. One of the most important areas of concern has been the failure of European Union member States to live up to their commitments on combating terrorism. The continued presence and activity of members of terrorist organizations - acknowledged by many European Union members as being involved in terrorism - in European Union countries has enabled terrorists to plan, organize and finance terrorist operations from Europe against Iran and its citizens, resulting in enormous loss of life and property. The fact that many known and indicted terrorists were paraded during the court proceedings in Berlin as so-called witnesses under the protection of German authorities is tantamount to state sponsorship of terrorism.

Moreover, many members of the European Union have supplied and continue to supply huge quantities of weapons of war to our region, contributing to instability and tension. It has become universally known, particularly as a result of the investigations of Iraqi chemical facilities, that many in Germany were involved in the supply of banned chemicals to Iraq as well as in the development of its chemical weapons and missile facilities. A large number of Iranian citizens lost their lives or were critically injured by these inhuman weapons. As announced by the pertinent judicial authorities of the Islamic Republic of Iran, the victims or their families have instituted legal proceedings against those involved in this crime. It would certainly be totally unacceptable for any authority to try to interfere in judicial proceedings.

At the same time, while reiterating its commitment to take necessary measures to ensure the safety, security and integrity of all foreign individuals and institutions, the Islamic Republic of Iran expects member States of the European Union to ensure the same in their respective countries.

In conclusion, it is evident that the tendency of certain States and their domestic organs to arrogate to themselves authority concerning issues beyond their competence in order to serve certain ulterior political objectives is dangerous and must be arrested. It would be particularly so when in the process universally recognized rules of international law as well as fundamental principles of fairness, due process and human rights are totally disregarded in order to arrive at self-serving conclusions. Such is the case in the irresponsible and baseless accusations levelled by a local German court and repeated and even further distorted by the Presidency of the European Union, callously and maliciously infringing upon the sovereignty, political independence and national dignity of the Islamic Republic of Iran. It is necessary to unequivocally condemn and reject this behaviour as totally unacceptable in the conduct of international affairs and detrimental to the cause of international peace and security.

It would be highly appreciated if this letter were circulated as a document of the General Assembly under items 71 and 82 of the preliminary list.

(Signed) Majid TAKHT-RAVANCHI
Ambassador
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